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2010 MAR -3 AM 9:26
CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA

FILED

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

ERIC WILLIAMS,

Plaintiff,

vs.

CAVALRY PORTFOLIO
SERVICES, LLC and WINN LAW
GROUP, APC.,

Defendants.

) Case No. **SACV 10-00255 JVS (ANx)**
)
) **COMPLAINT FOR VIOLATION**
) **OF FEDERAL FAIR DEBT**
) **COLLECTION PRACTICES ACT,**
) **ROSENTHAL FAIR DEBT**
) **COLLECTION PRACTICES ACT,**
) **AND INVASION OF PRIVACY**
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)

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code § 1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices. Ancillary to the claims above, Plaintiff further alleges claims for

1 invasion of privacy arising from intrusion upon seclusion and public disclosure of
2 private facts.
3

4 II. JURISDICTION

5 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).
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7 III. PARTIES

8 3. Plaintiff, Eric Williams ("Plaintiff"), is a natural person residing in
9 Orange county in the state of California, and is a "consumer" as defined by the
10 FDCPA, 15 U.S.C. § 1692a(3) and is a "debtor" as defined by Cal Civ Code
11 1788.2(h).
12

13
14 4. At all relevant times herein, Defendant, **CAVALRY PORTFOLIO**
15 **SERVICES, LLC** ("Defendant CPS") was a company engaged, by use of the
16 mails and telephone, in the business of collecting a debt from Plaintiff which
17 qualifies as a "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt,"
18 as defined by Cal Civ Code § 1788.2(f). Defendant CPS regularly attempts to
19 collect debts alleged to be due another, and therefore is a "debt collector" as
20 defined by the FDCPA, 15 U.S.C. § 1692a(6), and RFDCPA, Cal Civ Code §
21 1788.2(c).
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25 5. At all relevant times herein, Defendant, **WINN LAW GROUP,**
26 **APC**, ("Defendant WLG") was a company engaged, by use of the mails and
27 telephone, in the business of collecting a debt from Plaintiff which qualifies as a
28

1 “consumer debt,” as defined by Cal Civ Code § 1788.2(f). Defendant WLG
2 regularly attempts to collect debts alleged to be due them, and therefore is a “debt
3 collector” as defined by the RFDCPA, Cal Civ Code § 1788.2(c).

4 IV. FACTUAL ALLEGATIONS

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7 5. At various and multiple times prior to the filing of the instant
8 complaint, including within the one year preceding the filing of this complaint,
9 Defendant CPS hired Defendant WLG to file a lawsuit against Plaintiff in an
10 attempt to collect an alleged outstanding debt. Defendant CPS’s and Defendant
11 WLG’s conduct violated the FDCPA and the RFDCPA in multiple ways,
12 including but not limited to:
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17 a) Threatening to take an action against Plaintiff that cannot
18 be legally taken or that was not actually intended to be
19 taken, including, but not limited to, seeking a judgment
20 against Plaintiff through a lawsuit which she had never
21 been served with (§1692e(5)).
- 22 b) Collecting a consumer debt from Plaintiff by means of
23 judicial proceedings, where the debt collector knew that
24 service of process, which was essential to jurisdiction over
25 Plaintiff or his property, had not been legally effected (Cal
26 Civ Code § 1788.14(a));
- 27 c) Using unfair or unconscionable means against Plaintiff in
28 connection with an attempt to collect a debt (§ 1692f))
including, but not limited to, seeking a judgment against
Plaintiff through a lawsuit which she had never been served
with (§1692f).
- d) Falsely representing the character, amount, or legal status
of Plaintiffs debt (§1692e(2)(A)), including, but not limited

- 1 to, attempting to collect a debt from Plaintiff that was not
 2 his, despite his proof that his identity had been stolen;
- 3 e) Communicating or threatening to communicate credit
 4 information which is known or which should be known to
 5 be false (§1692e(8)) including, but not limited to,
 6 attempting to collect a debt from Plaintiff that was not his,
 7 despite his proof that his identity had been stolen;
- 8 f) Collecting an amount from Plaintiff that is not expressly
 9 authorized by the agreement creating the debt (§1692f(1))
 10 including, but not limited to, attempting to collect a debt
 11 from Plaintiff that was not his, despite his proof that his
 12 identity had been stolen; and
- 13 g) Collecting an amount from Plaintiff that is not permitted by
 14 law (§1692f(1)) including, but not limited to, attempting to
 15 collect a debt from Plaintiff that was not his, despite his
 16 proof that his identity had been stolen.

17 6. Defendant CPS's and Defendant WLG's aforementioned violations
 18 of the FDCPA and RFDCPA also constitute an intentional intrusion into
 19 Plaintiff's private places and into private matters of Plaintiff's life, conducted in a
 20 manner highly offensive to a reasonable person. Plaintiff had a subjective
 21 expectation of privacy that was objectively reasonable under the circumstances.

22 7. Defendant CPS's and Defendant WLG's aforementioned disclosure
 23 of facts regarding Plaintiff's debt to third parties constitutes a public disclosure of
 24 a private fact not of legitimate public concern. Defendant CPS's and Defendant
 25 WLG's disclosures were highly offensive to a reasonable person.

26 8. As a result of the above violations of the FDCPA, RFDCPA and
 27 invasion of privacy, Plaintiff suffered and continues to suffer injury to Plaintiff's
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1 feelings, personal humiliation, embarrassment, mental anguish and emotional
2 distress, and Defendant CPS and Defendant WLG are liable to Plaintiff for
3 Plaintiff's actual damages, statutory damages, and costs and attorney's fees.
4

5 **COUNT I: VIOLATION OF FAIR DEBT**
6 **COLLECTION PRACTICES ACT AS TO BOTH DEFENDANTS**

7 9. Plaintiff reincorporates by reference all of the preceding paragraphs.
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12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff respectfully prays that judgment be entered
14 against Defendant CPS and Defendant WLG for the following:
15

- 16 A. Declaratory judgment that Defendant CPS and Defendant
17 WLG conduct violated the FDCPA;
18 B. Actual damages;
19 C. Statutory damages;
20 D. Costs and reasonable attorney's fees; and,
21 E. For such other and further relief as may be just and proper.

22 **COUNT II: VIOLATION OF ROSENTHAL**
23 **FAIR DEBT COLLECTION PRACTICES ACT AS TO BOTH**
24 **DEFENDANTS**

25 10. Plaintiff reincorporates by reference all of the preceding paragraphs.

26 11. To the extent that Defendant CPS's and Defendant WLG's actions,
27 counted above, violated the RFDCPA, those actions were done knowingly and
28 willfully

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant CPS and Defendant WLG for the following:

- A. Declaratory judgment that Defendant CPS's and Defendant WLG's conduct violated the RFDCPA;
- B. Actual damages;
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

**COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION
AND INVASION OF PRIVACY BY PUBLICATION OF PRIVATE FACTS
AS TO BOTH DEFENDANTS**

12. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant WLG and Defendant CPS for the following:

- A. Actual damages
- B. Punitive Damages; and,
- C. For such other and further relief as may be just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 26th day of February, 2010.

By: 
TODD M. FRIEDMAN (216752)
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge James V. Selna and the assigned discovery Magistrate Judge is Arthur Nakazato.

The case number on all documents filed with the Court should read as follows:

SACV10- 255 JVS (ANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☒ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Todd M. Friedman, Esq.
 Law Offices of Todd M. Friedman, P.C.
 369 S. Doheny Dr., #415
 Beverly Hills, CA 90211

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

ERIC WILLIAMS,

CASE NUMBER

PLAINTIFF(S)

SACV 10-00255 JVS(ANX)

v.

CAVALRY PORTFOLIO SERVICES, LLC and
 WINN LAW GROUP, APC.,

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): Cavalry Portfolio Services, LLC 7 Skyline Drive Hawthorne, NY 10532
Winn Law Group, APC, 110 E Wilshire Ave. Suite 212 Fullerton, CA 92832

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Todd M. Friedman, whose address is Law Offices of Todd M. Friedman, 369 S. Doheny Dr., #415, Beverly Hills, CA 90211. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 3/3/10

By: J. DeBose

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)
 Eric Williams

DEFENDANTS
 CAVALRY PORTFOLIO SERVICES, LLC and WINN LAW GROUP, APC,

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Todd M. Friedman, Esq. Law Offices of Todd M. Friedman, P.C.
 369 S. Doheny Dr., #415, Beverly Hills, CA 90211

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
 (Place an X in one box for plaintiff and one for defendant.)

- | | | | |
|---|---|---|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State | PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3 | Foreign Nation | PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: **JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

☐ **MONEY DEMANDED IN COMPLAINT:** \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 15 USC 1692 Violation of the Fair Debt Collection Practices Act

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number:

SACV 10-00255 JVS (ANx)

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

CIVIL COVER SHEET

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange	Orange county for Winn Law Group, APC

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	New York

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ **Date** February 26, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))